



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 620

2 AMENDMENT NO. _____. Amend Senate Bill 620 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by changing
5 Section 8h and by adding Sections 5.640, 6z-68, and 8.25g as
6 follows:

7 (30 ILCS 105/5.640 new)

8 Sec. 5.640. The Conservation Initiatives Fund.

9 (30 ILCS 105/6z-68 new)

10 Sec. 6z-68. The Conservation Initiatives Fund.

11 (a) The Conservation Initiatives Fund is created as a
12 special fund in the State treasury. At the beginning of each
13 fiscal quarter, or as soon thereafter as practical, the State
14 Treasurer must transfer from the General Revenue Fund to the
15 Conservation Initiatives Fund an amount equal to 25% of the
16 total amount of the credits received by all public utilities
17 under Section 8-403.1 of the Public Utilities Act during Fiscal
18 Year 2005.

19 (b) Of the moneys in the Fund:

20 (1) 20% shall be available to the Department of Natural
21 Resources to be used, subject to appropriation, only for
22 the operation of the Conservation 2000 program;

23 (2) 40% shall be available to the Department of Natural

1 Resources to be used, subject to appropriation, only for
2 the nonfederal cost share of Conservation Reserve
3 Enhancement Programs;

4 (3) 20% shall be available to the Department of Natural
5 Resources to be used, subject to appropriation, only for
6 personal services and related items necessary to retain
7 conservation personnel; and

8 (4) 20% shall be available to the Department of
9 Agriculture to be used, subject to appropriation, only for
10 grants to soil and water conservation districts to
11 implement agricultural resource enhancement programs for
12 Illinois' natural resources, including operation expenses.

13 (c) Moneys received for the purposes of this Section,
14 including, without limitation, appropriations, gifts, grants,
15 and awards from any public or private entity, must be deposited
16 into the Fund. Any interest earned on moneys in the Fund must
17 be deposited into the Fund.

18 (30 ILCS 105/8.25g new)

19 Sec. 8.25g. Transfers to the Municipal Economic
20 Development Fund. At the beginning of each fiscal year, or as
21 soon thereafter as practical, the State Treasurer shall
22 transfer the sum of \$500,000 from the General Revenue Fund to
23 the Municipal Economic Development Fund. The moneys shall be
24 distributed as authorized by subsection (j) of Section 8-403.1
25 of the Public Utilities Act.

26 (30 ILCS 105/8h)

27 Sec. 8h. Transfers to General Revenue Fund.

28 (a) Except as provided in subsection (b), notwithstanding
29 any other State law to the contrary, the Governor may, through
30 June 30, 2007, from time to time direct the State Treasurer and
31 Comptroller to transfer a specified sum from any fund held by
32 the State Treasurer to the General Revenue Fund in order to

1 help defray the State's operating costs for the fiscal year.
2 The total transfer under this Section from any fund in any
3 fiscal year shall not exceed the lesser of (i) 8% of the
4 revenues to be deposited into the fund during that fiscal year
5 or (ii) an amount that leaves a remaining fund balance of 25%
6 of the July 1 fund balance of that fiscal year. In fiscal year
7 2005 only, prior to calculating the July 1, 2004 final
8 balances, the Governor may calculate and direct the State
9 Treasurer with the Comptroller to transfer additional amounts
10 determined by applying the formula authorized in Public Act
11 93-839 to the funds balances on July 1, 2003. No transfer may
12 be made from a fund under this Section that would have the
13 effect of reducing the available balance in the fund to an
14 amount less than the amount remaining unexpended and unreserved
15 from the total appropriation from that fund estimated to be
16 expended for that fiscal year. This Section does not apply to
17 any funds that are restricted by federal law to a specific use,
18 to any funds in the Motor Fuel Tax Fund, the Hospital Provider
19 Fund, the Medicaid Provider Relief Fund, the Conservation
20 Initiatives Fund, or the Reviewing Court Alternative Dispute
21 Resolution Fund, or to any funds to which subsection (f) of
22 Section 20-40 of the Nursing and Advanced Practice Nursing Act
23 applies. Notwithstanding any other provision of this Section,
24 for fiscal year 2004, the total transfer under this Section
25 from the Road Fund or the State Construction Account Fund shall
26 not exceed the lesser of (i) 5% of the revenues to be deposited
27 into the fund during that fiscal year or (ii) 25% of the
28 beginning balance in the fund. For fiscal year 2005 through
29 fiscal year 2007, no amounts may be transferred under this
30 Section from the Road Fund, the State Construction Account
31 Fund, the Criminal Justice Information Systems Trust Fund, the
32 Wireless Service Emergency Fund, or the Mandatory Arbitration
33 Fund.

34 In determining the available balance in a fund, the

1 Governor may include receipts, transfers into the fund, and
2 other resources anticipated to be available in the fund in that
3 fiscal year.

4 The State Treasurer and Comptroller shall transfer the
5 amounts designated under this Section as soon as may be
6 practicable after receiving the direction to transfer from the
7 Governor.

8 (b) This Section does not apply to any fund established
9 under the Community Senior Services and Resources Act.

10 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
11 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
12 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
13 1-15-05.)

14 Section 10. The Electricity Excise Tax Law is amended by
15 changing Sections 2-7 and 2-9 as follows:

16 (35 ILCS 640/2-7)

17 Sec. 2-7. Collection of electricity excise tax.

18 (a) Beginning with bills for electricity or electric
19 service issued on and after August 1, 1998, the tax imposed by
20 this Law shall be collected from the purchaser, other than a
21 self-assessing purchaser where the delivering supplier or
22 suppliers are notified by the Department that the purchaser has
23 been registered as a self-assessing purchaser for the accounts
24 listed by the self-assessing purchaser as described in Section
25 2-10 of this Law, by any delivering supplier maintaining a
26 place of business in this State at the rates stated in Section
27 2-4 with respect to the electricity delivered by such
28 delivering supplier to or for the purchaser, and shall be
29 remitted to the Department as provided in Section 2-9 of this
30 Law. All sales to a purchaser are presumed subject to tax
31 collection unless the Department notifies the delivering
32 supplier that the purchaser has been registered as a

1 self-assessing purchaser for the accounts listed by the
2 self-assessing purchaser as described in Section 2-10 of this
3 Law. Upon receipt of notification by the Department, the
4 delivering supplier is relieved of all liability for the
5 collection and remittance of tax from the self-assessing
6 purchaser for which notification was provided by the
7 Department. The delivering supplier is relieved of the
8 liability for the collection of the tax from a self-assessing
9 purchaser until such time as the delivering supplier is
10 notified in writing by the Department that the purchaser's
11 certification as a self-assessing purchaser is no longer in
12 effect. Delivering suppliers shall collect the tax from
13 purchasers by adding the tax to the amount of the purchase
14 price received from the purchaser for delivering electricity
15 for or to the purchaser. Where a delivering supplier does not
16 collect the tax from a purchaser, other than a self-assessing
17 purchaser, as provided herein, such purchaser shall pay the tax
18 directly to the Department.

19 (b) Except as otherwise provided in this subsection,
20 through June 30, 2005, the ~~The~~ credit allowed to a public
21 utility under Section 8-403.1 of the Public Utilities Act shall
22 be allowed as a credit against the public utility's obligation
23 to remit electricity excise tax described in Section 2-9. After
24 June 30, 2005, the tax credit is allowed only for electricity
25 generated by qualified solid waste energy facilities fueled by
26 methane gas from landfills owned by forest preserve districts
27 as of the effective date of this amendatory Act of the 94th
28 General Assembly.

29 (Source: P.A. 90-561, eff. 8-1-98; 90-624, eff. 7-10-98;
30 90-813, eff. 1-29-99.)

31 (35 ILCS 640/2-9)

32 Sec. 2-9. Return and payment of tax by delivering supplier.
33 Each delivering supplier who is required or authorized to

1 collect the tax imposed by this Law shall make a return to the
2 Department on or before the 15th day of each month for the
3 preceding calendar month stating the following:

4 (1) The delivering supplier's name.

5 (2) The address of the delivering supplier's principal
6 place of business and the address of the principal place of
7 business (if that is a different address) from which the
8 delivering supplier engaged in the business of delivering
9 electricity in this State.

10 (3) The total number of kilowatt-hours which the
11 supplier delivered to or for purchasers during the
12 preceding calendar month and upon the basis of which the
13 tax is imposed.

14 (4) Amount of tax, computed upon Item (3) at the rates
15 stated in Section 2-4.

16 (5) An adjustment for uncollectible amounts of tax in
17 respect of prior period kilowatt-hour deliveries,
18 determined in accordance with rules and regulations
19 promulgated by the Department.

20 (5.5) Through June 30, 2005, the ~~The~~ amount of credits
21 to which the taxpayer is entitled on account of purchases
22 made under Section 8-403.1 of the Public Utilities Act and
23 after June 30, 2005, the amount of credits to which the
24 taxpayer is entitled on account of purchases made under
25 Section 8-403.1 of the Public Utilities Act relating to
26 purchases of electricity generated by qualified solid
27 waste energy facilities fueled from methane gas from
28 landfills that are owned by forest preserve districts as of
29 the effective date of this amendatory Act of the 94th
30 General Assembly.

31 (6) Such other information as the Department
32 reasonably may require.

33 In making such return the delivering supplier may use any
34 reasonable method to derive reportable "kilowatt-hours" from

1 the delivering supplier's records.

2 If the average monthly tax liability to the Department of
3 the delivering supplier does not exceed \$2,500, the Department
4 may authorize the delivering supplier's returns to be filed on
5 a quarter-annual basis, with the return for January, February
6 and March of a given year being due by April 30 of such year;
7 with the return for April, May and June of a given year being
8 due by July 31 of such year; with the return for July, August
9 and September of a given year being due by October 31 of such
10 year; and with the return for October, November and December of
11 a given year being due by January 31 of the following year.

12 If the average monthly tax liability to the Department of
13 the delivering supplier does not exceed \$1,000, the Department
14 may authorize the delivering supplier's returns to be filed on
15 an annual basis, with the return for a given year being due by
16 January 31 of the following year.

17 Such quarter-annual and annual returns, as to form and
18 substance, shall be subject to the same requirements as monthly
19 returns.

20 Notwithstanding any other provision in this Law concerning
21 the time within which a delivering supplier may file a return,
22 any such delivering supplier who ceases to engage in a kind of
23 business which makes the person responsible for filing returns
24 under this Law shall file a final return under this Law with
25 the Department not more than one month after discontinuing such
26 business.

27 Each delivering supplier whose average monthly liability
28 to the Department under this Law was \$10,000 or more during the
29 preceding calendar year, excluding the month of highest
30 liability and the month of lowest liability in such calendar
31 year, and who is not operated by a unit of local government,
32 shall make estimated payments to the Department on or before
33 the 7th, 15th, 22nd and last day of the month during which tax
34 liability to the Department is incurred in an amount not less

1 than the lower of either 22.5% of such delivering supplier's
2 actual tax liability for the month or 25% of such delivering
3 supplier's actual tax liability for the same calendar month of
4 the preceding year. The amount of such quarter-monthly payments
5 shall be credited against the final tax liability of such
6 delivering supplier's return for that month. An outstanding
7 credit approved by the Department or a credit memorandum issued
8 by the Department arising from such delivering supplier's
9 overpayment of his or her final tax liability for any month may
10 be applied to reduce the amount of any subsequent
11 quarter-monthly payment or credited against the final tax
12 liability of such delivering supplier's return for any
13 subsequent month. If any quarter-monthly payment is not paid at
14 the time or in the amount required by this Section, such
15 delivering supplier shall be liable for penalty and interest on
16 the difference between the minimum amount due as a payment and
17 the amount of such payment actually and timely paid, except
18 insofar as such delivering supplier has previously made
19 payments for that month to the Department in excess of the
20 minimum payments previously due.

21 If the Director finds that the information required for the
22 making of an accurate return cannot reasonably be compiled by
23 such delivering supplier within 15 days after the close of the
24 calendar month for which a return is to be made, the Director
25 may grant an extension of time for the filing of such return
26 for a period not to exceed 31 calendar days. The granting of
27 such an extension may be conditioned upon the deposit by such
28 delivering supplier with the Department of an amount of money
29 not exceeding the amount estimated by the Director to be due
30 with the return so extended. All such deposits shall be
31 credited against such delivering supplier's liabilities under
32 this Law. If the deposit exceeds such delivering supplier's
33 present and probable future liabilities under this Law, the
34 Department shall issue to such delivering supplier a credit

1 memorandum, which may be assigned by such delivering supplier
2 to a similar person under this Law, in accordance with
3 reasonable rules and regulations to be prescribed by the
4 Department.

5 The delivering supplier making the return provided for in
6 this Section shall, at the time of making such return, pay to
7 the Department the amount of tax imposed by this Law.

8 Until October 1, 2002, a delivering supplier who has an
9 average monthly tax liability of \$10,000 or more shall make all
10 payments required by rules of the Department by electronic
11 funds transfer. The term "average monthly tax liability" shall
12 be the sum of the delivering supplier's liabilities under this
13 Law for the immediately preceding calendar year divided by 12.
14 Beginning on October 1, 2002, a taxpayer who has a tax
15 liability in the amount set forth in subsection (b) of Section
16 2505-210 of the Department of Revenue Law shall make all
17 payments required by rules of the Department by electronic
18 funds transfer. Any delivering supplier not required to make
19 payments by electronic funds transfer may make payments by
20 electronic funds transfer with the permission of the
21 Department. All delivering suppliers required to make payments
22 by electronic funds transfer and any delivering suppliers
23 authorized to voluntarily make payments by electronic funds
24 transfer shall make those payments in the manner authorized by
25 the Department.

26 Through June 30, 2004, each month the Department shall pay
27 into the Public Utility Fund in the State treasury an amount
28 determined by the Director to be equal to 3.0% of the funds
29 received by the Department pursuant to this Section. Through
30 June 30, 2004, the remainder of all moneys received by the
31 Department under this Section shall be paid into the General
32 Revenue Fund in the State treasury. Beginning on July 1, 2004,
33 of the 3% of the funds received pursuant to this Section, each
34 month the Department shall pay \$416,667 into the General

1 Revenue Fund and the balance shall be paid into the Public
2 Utility Fund in the State treasury.

3 (Source: P.A. 92-492, eff. 1-1-02; 93-839, eff. 7-30-04.)

4 Section 15. The Public Utilities Act is amended by changing
5 Section 8-403.1 as follows:

6 (220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 8-403.1)

7 Sec. 8-403.1. Electricity purchased from qualified solid
8 waste energy facility; tax credit; distributions for economic
9 development.

10 (a) It is hereby declared to be the policy of this State to
11 encourage the development of alternate energy production
12 facilities in order to conserve our energy resources and to
13 provide for their most efficient use.

14 (b) For the purpose of this Section and Section 9-215.1,
15 "qualified solid waste energy facility" means a facility
16 determined by the Illinois Commerce Commission to qualify as
17 such under the Local Solid Waste Disposal Act, to use methane
18 gas generated from landfills as its primary fuel, and to
19 possess characteristics that would enable it to qualify as a
20 cogeneration or small power production facility under federal
21 law.

22 (c) In furtherance of the policy declared in this Section,
23 the Illinois Commerce Commission shall require electric
24 utilities to enter into long-term contracts to purchase
25 electricity from qualified solid waste energy facilities
26 located in the electric utility's service area, for a period
27 beginning on the date that the facility begins generating
28 electricity and having a duration of not less than 10 years in
29 the case of facilities fueled by landfill-generated methane, or
30 20 years in the case of facilities fueled by methane generated
31 from a landfill owned by a forest preserve district. The
32 purchase rate contained in such contracts shall be equal to the

1 average amount per kilowatt-hour paid from time to time by the
2 unit or units of local government in which the electricity
3 generating facilities are located, excluding amounts paid for
4 street lighting and pumping service.

5 Notwithstanding any other provision of this Section or any
6 other law to the contrary, an electric utility is not required
7 to purchase electricity from any qualified solid waste energy
8 facility after June 30, 2005, except for electricity generated
9 from qualified solid waste energy facilities that are fueled by
10 methane gas from landfills owned by forest preserve districts
11 as of the effective date of this amendatory Act of the 94th
12 General Assembly.

13 (d) Through June 30, 2005, whenever ~~Whenever~~ a public
14 utility is required to purchase electricity pursuant to
15 subsection (c) above, it shall be entitled to credits in
16 respect of its obligations to remit to the State taxes it has
17 collected under the Electricity Excise Tax Law equal to the
18 amounts, if any, by which payments for such electricity exceed
19 (i) the then current rate at which the utility must purchase
20 the output of qualified facilities pursuant to the federal
21 Public Utility Regulatory Policies Act of 1978, less (ii) any
22 costs, expenses, losses, damages or other amounts incurred by
23 the utility, or for which it becomes liable, arising out of its
24 failure to obtain such electricity from such other sources. The
25 amount of any such credit shall, in the first instance, be
26 determined by the utility, which shall make a monthly report of
27 such credits to the Illinois Commerce Commission and, on its
28 monthly tax return, to the Illinois Department of Revenue.
29 Under no circumstances shall a utility be required to purchase
30 electricity from a qualified solid waste energy facility at the
31 rate prescribed in subsection (c) of this Section if such
32 purchase would result in estimated tax credits that exceed, on
33 a monthly basis, the utility's estimated obligation to remit to
34 the State taxes it has collected under the Electricity Excise

1 Tax Law. The owner or operator shall negotiate facility
2 operating conditions with the purchasing utility in accordance
3 with that utility's posted standard terms and conditions for
4 small power producers. If the Department of Revenue disputes
5 the amount of any such credit, such dispute shall be decided by
6 the Illinois Commerce Commission. Whenever a qualified solid
7 waste energy facility has paid or otherwise satisfied in full
8 the capital costs or indebtedness incurred in developing and
9 implementing the qualified facility, the qualified facility
10 shall reimburse the Public Utility Fund and the General Revenue
11 Fund in the State treasury for the actual reduction in payments
12 to those Funds caused by this subsection (d) in a manner to be
13 determined by the Illinois Commerce Commission and based on the
14 manner in which revenues for those Funds were reduced.

15 (e) The Illinois Commerce Commission shall not require an
16 electric utility to purchase electricity from any qualified
17 solid waste energy facility which is owned or operated by an
18 entity that is primarily engaged in the business of producing
19 or selling electricity, gas, or useful thermal energy from a
20 source other than one or more qualified solid waste energy
21 facilities.

22 The Illinois Commerce Commission shall not require an
23 electric utility to purchase electricity from any qualified
24 solid waste energy facility after June 30, 2005, except for
25 electricity generated by a qualified solid waste energy
26 facility fueled by methane gas from landfills owned by forest
27 preserve districts as of the effective date of this amendatory
28 Act of the 94th General Assembly.

29 (f) This Section does not require an electric utility to
30 construct additional facilities unless those facilities are
31 paid for by the owner or operator of the affected qualified
32 solid waste energy facility.

33 (g) The Illinois Commerce Commission shall require that:
34 (1) electric utilities use the electricity purchased from a

1 qualified solid waste energy facility to displace electricity
2 generated from nuclear power or coal mined and purchased
3 outside the boundaries of the State of Illinois before
4 displacing electricity generated from coal mined and purchased
5 within the State of Illinois, to the extent possible, and (2)
6 electric utilities report annually to the Commission on the
7 extent of such displacements.

8 (h) Nothing in this Section is intended to cause an
9 electric utility that is required to purchase power hereunder
10 to incur any economic loss as a result of its purchase. All
11 amounts paid for power which a utility is required to purchase
12 pursuant to subparagraph (c) shall be deemed to be costs
13 prudently incurred for purposes of computing charges under
14 rates authorized by Section 9-220 of this Act. Tax credits
15 provided for herein shall be reflected in charges made pursuant
16 to rates so authorized to the extent such credits are based
17 upon a cost which is also reflected in such charges.

18 (i) Beginning in February 1999 and through January 2009,
19 each qualified solid waste energy facility that sells
20 electricity to an electric utility at the purchase rate
21 described in subsection (c) shall file with the Department of
22 Revenue on or before the 15th of each month a form, prescribed
23 by the Department of Revenue, that states the number of
24 kilowatt hours of electricity for which payment was received at
25 that purchase rate from electric utilities in Illinois during
26 the immediately preceding month. This form shall be accompanied
27 by a payment from the qualified solid waste energy facility in
28 an amount equal to six-tenths of a mill (\$.0006) per kilowatt
29 hour of electricity stated on the form. Beginning on the
30 effective date of this amendatory Act of the 92nd General
31 Assembly, a qualified solid waste energy facility must file the
32 form required under this subsection (i) before the 15th of each
33 month regardless of whether the facility received any payment
34 in the previous month. Payments received by the Department of

1 Revenue shall be deposited into the Municipal Economic
2 Development Fund, a trust fund created outside the State
3 treasury. The State Treasurer may invest the moneys in the Fund
4 in any investment authorized by the Public Funds Investment
5 Act, and investment income shall be deposited into and become
6 part of the Fund. Moneys in the Fund shall be used by the State
7 Treasurer as provided in subsection (j). The obligation of a
8 qualified solid waste energy facility to make payments into the
9 Municipal Economic Development Fund shall terminate upon the
10 first of the following to occur ~~either~~: (1) expiration or
11 termination of a facility's contract to sell electricity to an
12 electric utility at the purchase rate described in subsection
13 (c); ~~or~~ (2) entry of an enforceable, final, and non-appealable
14 order by a court of competent jurisdiction that Public Act
15 89-448 is invalid; or (3) January 31, 2009. Payments by a
16 qualified solid waste energy facility into the Municipal
17 Economic Development Fund do not relieve the qualified solid
18 waste energy facility of its obligation to reimburse the Public
19 Utility Fund and the General Revenue Fund for the actual
20 reduction in payments to those Funds as a result of credits
21 received by electric utilities under subsection (d).

22 A qualified solid waste energy facility that fails to
23 timely file the requisite form and payment as required by this
24 subsection (i) shall be subject to penalties and interest in
25 conformance with the provisions of the Illinois Uniform Penalty
26 and Interest Act.

27 Every qualified solid waste energy facility subject to the
28 provisions of this subsection (i) shall keep and maintain
29 records and books of its sales pursuant to subsection (c),
30 including payments received from those sales and the
31 corresponding tax payments made in accordance with this
32 subsection (i), and for purposes of enforcement of this
33 subsection (i) all such books and records shall be subject to
34 inspection by the Department of Revenue or its duly authorized

1 agents or employees.

2 When a qualified solid waste energy facility fails to file
3 the form or make the payment required under this subsection
4 (i), the Department of Revenue, to the extent that it is
5 practical, may enforce the payment obligation in a manner
6 consistent with Section 5 of the Retailers' Occupation Tax Act,
7 and if necessary may impose and enforce a tax lien in a manner
8 consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5i of
9 the Retailers' Occupation Tax Act. No tax lien may be imposed
10 or enforced, however, unless a qualified solid waste energy
11 facility fails to make the payment required under this
12 subsection (i). Only to the extent necessary and for the
13 purpose of enforcing this subsection (i), the Department of
14 Revenue may secure necessary information from a qualified solid
15 waste energy facility in a manner consistent with Section 10 of
16 the Retailers' Occupation Tax Act.

17 All information received by the Department of Revenue in
18 its administration and enforcement of this subsection (i) shall
19 be confidential in a manner consistent with Section 11 of the
20 Retailers' Occupation Tax Act. The Department of Revenue may
21 adopt rules to implement the provisions of this subsection (i).

22 For purposes of implementing the maximum aggregate
23 distribution provisions in subsections (j) and (k), when a
24 qualified solid waste energy facility makes a late payment to
25 the Department of Revenue for deposit into the Municipal
26 Economic Development Fund, that payment and deposit shall be
27 attributed to the month and corresponding quarter in which the
28 payment should have been made, and the Treasurer shall make
29 retroactive distributions or refunds, as the case may be,
30 whenever such late payments so require.

31 (j) The State Treasurer, without appropriation, must make
32 distributions immediately after January 15, April 15, July 15,
33 and October 15 of each year, up to maximum aggregate
34 distributions of \$500,000 for the distributions made in the 4

1 quarters beginning with the April distribution and ending with
2 the January distribution, from the Municipal Economic
3 Development Fund to each city, village, or incorporated town
4 that has within its boundaries an incinerator that: (1) uses
5 or, on the effective date of Public Act 90-813, used municipal
6 waste as its primary fuel to generate electricity; (2) was
7 determined by the Illinois Commerce Commission to qualify as a
8 qualified solid waste energy facility prior to the effective
9 date of Public Act 89-448; and (3) commenced operation prior to
10 January 1, 1998. Total distributions in the aggregate to all
11 qualified cities, villages, and incorporated towns in the 4
12 quarters beginning with the April distribution and ending with
13 the January distribution shall not exceed \$500,000. The amount
14 of each distribution shall be determined pro rata based on the
15 population of the city, village, or incorporated town compared
16 to the total population of all cities, villages, and
17 incorporated towns eligible to receive a distribution.
18 Distributions received by a city, village, or incorporated town
19 must be held in a separate account and may be used only to
20 promote and enhance industrial, commercial, residential,
21 service, transportation, and recreational activities and
22 facilities within its boundaries, thereby enhancing the
23 employment opportunities, public health and general welfare,
24 and economic development within the community, including
25 administrative expenditures exclusively to further these
26 activities. These funds, however, shall not be used by the
27 city, village, or incorporated town, directly or indirectly, to
28 purchase, lease, operate, or in any way subsidize the operation
29 of any incinerator, and these funds shall not be paid, directly
30 or indirectly, by the city, village, or incorporated town to
31 the owner, operator, lessee, shareholder, or bondholder of any
32 incinerator. Moreover, these funds shall not be used to pay
33 attorneys fees in any litigation relating to the validity of
34 Public Act 89-448. Nothing in this Section prevents a city,

1 village, or incorporated town from using other corporate funds
2 for any legitimate purpose. For purposes of this subsection,
3 the term "municipal waste" has the meaning ascribed to it in
4 Section 3.290 of the Environmental Protection Act.

5 (k) If maximum aggregate distributions of \$500,000 under
6 subsection (j) have been made after the January distribution
7 from the Municipal Economic Development Fund, then the balance
8 in the Fund shall be refunded to the qualified solid waste
9 energy facilities that made payments that were deposited into
10 the Fund during the previous 12-month period. The refunds shall
11 be prorated based upon the facility's payments in relation to
12 total payments for that 12-month period.

13 (l) Beginning January 1, 2000, and each January 1
14 thereafter, each city, village, or incorporated town that
15 received distributions from the Municipal Economic Development
16 Fund, continued to hold any of those distributions, or made
17 expenditures from those distributions during the immediately
18 preceding year shall submit to a financial and compliance and
19 program audit of those distributions performed by the Auditor
20 General at no cost to the city, village, or incorporated town
21 that received the distributions. The audit should be completed
22 by June 30 or as soon thereafter as possible. The audit shall
23 be submitted to the State Treasurer and those officers
24 enumerated in Section 3-14 of the Illinois State Auditing Act.
25 If the Auditor General finds that distributions have been
26 expended in violation of this Section, the Auditor General
27 shall refer the matter to the Attorney General. The Attorney
28 General may recover, in a civil action, 3 times the amount of
29 any distributions illegally expended. For purposes of this
30 subsection, the terms "financial audit," "compliance audit",
31 and "program audit" have the meanings ascribed to them in
32 Sections 1-13 and 1-15 of the Illinois State Auditing Act.

33 (Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01;
34 92-574, eff. 6-26-02.)

1 Section 99. Effective date. This Act takes effect July 1,
2 2005.".